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IN THE HON'BLE HIGH COURT OF JUDICATURE, MADHYA PRADESH JABALPUR, M.P.

WRIT PETITION No. 2326 /2000.

IN THE MATTER OF :

PETITIONERS :

1. M/s. Bhilai Scan & Research Private Limited, (A registered Private Limited Company under relevant provisions of Indian Companies Act, 1956, having its registered office at Bhilai), 15, Commercial Complex Nehru Nagar (East), Bhilai, through its Director Dr.M.K.Khanduja S/o. Shri D.P.Khanduja, aged 40 years, resident of 36/3, Nehru Nagar (East) Bhilai, Tahsil and District Durg (M.P.)

2. M/s. Bhilai Diagnostic & Research Centre, 15, Commercial Complex, Nehru Nagar (East), Bhilai, (A Partnership Firm registered under relevant provisions of Indian Partnership Act, 1932, having its registered office at Bhilai), through one of its Partner Dr.M.K.Khanduja S/o. Shri D.P.Khanduja, aged 40 years, resident of 36/3, Nehru Nagar (East) P.O. Bhilai, Tahsil and District Durg (M.P.)

VERSUS

RESPONDENTS :

R 1. The State of Madhya Pradesh, Through: The Collector, Durg (M.P.)

R 2. The Inspector General of Registration & The Superintendent of Stamps, Government of Madhya Pradesh, P.O., Tahsil & District Gwalior (M.P.)

R 3. The District Registrar and The Collector of Stamps, Durg (M.P.)

4. The State Bank of India, Industrial Finance Branch, Sector No.1, P.O., Bhilai, Tahsil and District Durg (M.P.)

G.D. Sharma NOTARY DURG (M.P.) INDIA 28.3.2000 STATE OF MADHYA PRADESH

WRIT PETITION UNDER ARTICLES 226 and 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT OR WRITS IN THE NATURE OF MANDAMUS, CERTIORARI AND PROHIBITION AND FOR OTHER APPROPRIATE ORDERS AND DIRECTIONS.

The humble petition of the Petitioners named above MOST RESPECTFULLY SHEWETH :

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XI-HC-22

(99)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2326/2000 सन् ~~200~~

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: -

HON'BLE SHRI FAKHRUDDIN, Ag.C.J.
& HON'BLE SHRI SUNIL KUMAR SINHA, J.

11/03/2005: -

None for the petitioners though fixed date SPC was issued to the petitioners on 09/02/2005.

Shri Prashant Mishra, Addl. Advocate General, with Shri N.K. Agrawal, Dy. A.G., for the State/respondents.

Heard.

This case has been received on transfer from the High Court of Madhya Pradesh.

Learned counsel appearing for the State very fairly stated that this matter is squarely covered by order dated 07/02/2003 passed by the Division Bench of the High Court of Madhya Pradesh in bunch of cases bearing Writ Petition No.4854 of 1999 and the connected matters. This matter has also been reported in 2003 (I) MPJR - SN 62 {W.P. No. 4854 of 1999 – M/s. Vikas Concrete Industries Vs. State of M.P.}

The points raised in this petition are similar to that of the points raised in aforesaid writ petitions and the same have been decided by Division Bench of the High Court of Madhya Pradesh. It is submitted that while deciding the aforesaid writ petitions, the Division Bench has observed as under:

(पीछे देखिये)

(100)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ....W.P.:2326/2000.... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(a) "There is a difference between the two concepts, namely, stamp duty and rate of duty;

(b) The State Legislature has the competence to provide the rates of stamp duty as per Entry 63 read with Entry 44 of List-III of the Seventh Schedule of the Constitution;

(c) There is no discrimination because a document relating to immovable property is liable to extra stamp duty under Section 75 of the 1993 Act because it is situated within the block whereas a similar property is not liable to excess duty solely on the ground it is situated within the Municipal area;

(d) Section 75 of the 1993 Act is intra vires and the proviso to Section 75 is to be given retrospective effect from the date when Section 75 came into force i.e. 25/01/1994; and

(e) The retroactivity would have limited effect so that the persons who have not paid the stamp duty would be liable to pay under the proviso but the persons who have paid under the main provision would not be entitled to refund."

In view of the submissions made by the counsel appearing for the State and, particularly the fact that this matter is squarely covered by the

(पीछे देखिये)

XI-HC-22

(101)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2326/2000 सन् ~~200~~

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित <-3->	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

decision of the Division Bench of High Court of Madhya Pradesh, this petition stands finally disposed of with the observations quoted above.

The security amount, if any, deposited, be refunded. There shall be no order as to costs.

Sd/-
Acting Chief Justice

Sd/-
Sunil Kumar Sinha
Judge

Sinha

(पीछे देखिये)